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Atty. Dkt. No. 024536-0135

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Kenichi MACHIDA  
Title: VARIABLE VALVE CONTROL APPARATUS  
FOR INTERNAL COMBUSTION ENGINE  
AND METHOD THEREOF  
Appl. No.: 10/716,532  
Filing Date: 11/20/2003  
Examiner: John Kwon  
Art Unit: 3747

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated March 9, 2005, Applicant hereby elects the claims of Group I, claims 1-5, 11 and 13-15, drawn to a variable valve control apparatus, for prosecution in the subject application.

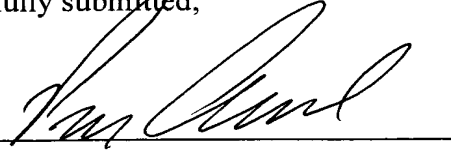
Applicant would like to assert that inventions I and III are related. Both inventions I and III are required to have the function of calculating an amount of gas passing through an intake valve, based on both an amount of predetermined times a spit-back gas amount at the time when said intake valve is opened and an amount of fresh air. Therefore, at least claims 16 and 17 should be examined as well.

Upon allowance of the elected claims, Applicant will be permitted to request rejoinder in accordance with MPEP 821.04 and *In re Ochiai*, 71 F.3d 1565 USPQ2d 1127 (Fed.Cir. 1995) of method claims 16-22 as appropriate.

Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

By



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Date: April 7, 2005

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